

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1.
  - a. Whether there should be additional reimbursement for date of service 03/29/01?
  - b. The request was received on 03/01/02.

### **II. EXHIBITS**

1. Requestor, Exhibit 1:
  - a. TWCC-60a/b and Letter Requesting Dispute Resolution
  - b. UB-92s
  - c. EOBs
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
  - a. TWCC-60a/b
  - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The Carrier and the Provider have three day responses in the dispute packet. There is not a 14 day response from either, nor is there a signed sheet by the Carrier. All of the information submitted in the case file will be reviewed, and a decision will be rendered on this.

### **III. PARTIES' POSITIONS**

1. Requestor:

Provider does not feel the claim was paid at a fair and reasonable rate. The total charge for the claim is \$2,148.86. The Provider was reimbursed in the amount of \$874.50.
2. Respondent:

Carrier reimbursed the Provider \$874.50 for DOS in dispute at fair and reasonable rate.

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1&2), the only date of service eligible for review is 03/29/01.
2. The provider billed a total of \$2,148.86 on the date of service in dispute.

3. The carrier reimbursed a total of \$874.50 and their EOB has the denial “M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B).”

## **V. RATIONALE**

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The carrier has not submitted its methodology for determining fair and reasonable reimbursement. The provider has not submitted any reimbursement data as an example of “fair and reasonable” reimbursement for same or similar services. Regardless of the carrier’s methodology or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 26<sup>th</sup> day of June 2002.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers’ Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.